Omni Innovations LLC v. EFinancial LLC et al Doc. 15

THE HONORABLE MARSHA PECHMAN

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

OMNI INNOVATIONS, LLC, a Washington Limited Liability Company, Plaintiff, v. EFINANCIAL, LLC, a Washington Limited Liability Company, f/k/a PRIMEPLAN, LLC, a Washington Limited Liability Company, also d/b/a TERMFINDER.COM, POLICYMATCH.COM; MICHAEL and KATHLEEN ROWELL, and their marital community; and JOHN DOES I-X, Defendants.	NO. CV06-1118 MJP ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANT EFINANCIAL, LLC (f/k/a PRIMEPLAN, LLC, also d/b/a TERMFINDER.COM and POLICYMATCH.COM) and MICHAEL AND KATHLEEN ROWELL

I. ANSWER

COME NOW Defendants EFinancial, LLC (f/k/a PrimePlan, LLC, also d/b/a Termfinder.com and PolicyMatch.com), and Michael and Kathleen Rowell, by and through their attorneys of record, and in answer to Plaintiff's Complaint, admit, deny and allege as follows:

PARTIES, JURISDICTION, VENUE

1. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore deny the same.

2. Defendants admit that EFinancial, LLC is a corporation registered in Washington,

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with its principal places of business in the state of Washington and admits it does or has done business as Termfinder.com and Policymatch.com. The remaining allegations of Paragraph 2 are denied.

3. Defendants admit that Michael Rowell is an officer and owner of EFinancial and that he resides in the state of Washington. The remaining allegations of Paragraph 3 are denied.

4. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore deny the same.

5. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore deny the same.

6. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore deny the same.

7. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore deny the same.

8. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore deny the same

9. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore deny the same

10. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore deny the same

11. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore deny the same

12. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore deny the same

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13. Because Plaintiff fails to identify to which emails its vague allegations refer, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore deny the same

14. Denied.

15. Denied.

FIRST CAUSE OF ACTION - CAN SPAM ACT

15 U.S.C. §7701 et seq.

16. Defendants re-allege their answers to paragraphs 1 through 15 and incorporate them herein as if fully set forth herein. The specific allegations contained in Paragraph 16 are denied.

17. Denied.

SECOND CAUSE OF ACTION - CEMA

RCW 19.190.010 - .070

18. Defendants re-allege the answers to paragraphs 1 through 17 and incorporate them herein as if set forth in full. The specific allegations contained in Paragraph 17 are denied.

THIRD CAUSE OF ACTION -CONSUMER PROTECTION ACT

Ch. 19.86 RCW

19. Defendants re-allege the answers to paragraphs 1 through 18 and incorporate them herein as if set forth in full. The specific allegations contained in Paragraph 19 are denied.

REQUEST FOR RELIEF

Defendants deny that Plaintiff is entitled to the relief requested.

II. AFFIRMATIVE DEFENSES

By way of further answer and without admitting any matter previously denied, Defendants

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allege the following affirmative defenses:

1. Plaintiff has failed to state a claim upon which relief can be granted.

2. Plaintiff has failed to name an indispensable party.

3. Plaintiff's damages, if any, were caused by the fault of Plaintiff.

4. Plaintiff's damages, if any, were caused or contributed to by the acts or omissions of third parties not under the control of Defendants.

5. Plaintiff has failed to mitigate its damages.

6. Plaintiff's claims are barred by the doctrines of estoppel and/or laches.

7. Plaintiff's claims are barred by the applicable statute of limitations and/or statute of repose.

III. RELIEF REQUESTED

Having fully answered Plaintiff's Complaint, Defendants request the following relief:

1. For dismissal of Plaintiff's Complaint with prejudice;

2. That Defendants be awarded costs and attorneys' fees incurred in defending against Plaintiff's claims pursuant to RCW 19.190.090 and Washington common law.

3. For such other relief as the Court may deem just and proper.

DATED at Seattle, Washington this 9th day of July, 2007.

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/s/ Matthew R. Wojcik

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CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of July, 2007 I electronically filed the foregoing document entitled Answer and Affirmative Defenses of Defendant Efinancial, LLC (f/k/a Primeplan, LLC, also d/b/a Termfinder.com and Policymatch.com) and Michael and Kathleen Rowell in accordance with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following persons:

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